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Examiner: Benny Quoc Tieu

Art Unit: 2642

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in re Appin. of:	Valery A.	Petrushin
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Appln. No.:

09/833,301

Filed:

April 10, 2001

For:

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DETECTING EMOTION IN VOICE

SIGNALS IN A CALL CENTER

Attorney Docket No:

10022/151

Mail Stop Appeal Brief - Patents Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

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PATENT Our Case No. 10022/151

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
Valery A. Petrushin) Group Art Unit 2642)
Serial No.: 09/833,301) Examiner: Benny Quoe Tieu)
Filed: April 10, 2001)
For: DETECTING EMOTION IN VOICE SIGNALS IN A CALL CENTER)

REPLY BRIEF TO EXAMINER'S ANSWER

MAIL STOP APPEAL BRIEF-PATENTS Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

This reply brief is in response to the Examiner's Answer mailed December 1, 2004.

Filed: April 10, 2001

Serial No. 09/833,301 Reply Brief to Examiner's Answer

REMARKS

Deficient Summary of Invention (Item 5)

The Examiner's Answer mailed December 1, 2004 has apparently asserted that the Summary of Invention included in the Appeal Brief filed on September 15, 2004 is "deficient." (Page 2, item 5) Applicant respectfully submits that the Summary of Invention (Section IV. of the Appeal Brief) is a true and accurate summary description that is fully supported by the specification, and is therefore not "deficient."

Grounds of Rejection (Item 9)

35 U.S.C. § 112 first paragraph rejection of Claims 2-4

The Examiner's Answer mailed December 1, 2004 has maintained the rejection of Claims 2-4 pursuant to 35 U.S.C. § 112 first paragraph. The Examiner's response has once again asserted that "Applicant's specification is silent on a first portion of the conversation being prerecorded and that first portion being tested <u>before</u> a second portion <u>is to be</u> recorded." (emphasis Applicant's) As discussed previously by Applicant, this narrow reading of Claims 2-4 inherently includes an additional limitation in the Claims that is simply not present. Applicant respectfully asserts that the limitation of the first portion being tested in sequence before the second portion is recorded is not part of Claims 2-4.

35 U.S.C. §102(e) rejection of Claims 2-4

The Examiner's Answer mailed December 1, 2004 has provided an "effective date" of January 27, 2004 for claim amendments filed on that day. The patent application at issue was filed on April 10, 2001 and takes priority from U.S. Patent Application Serial No. 09/388,909 filed on August 31, 1999, which is now U.S. Patent No. 6,275,806. Apparently, the

Serial No. 09/833,301 Reply Brief to Examiner's Answer

Filed: April 10, 2001

amendment filed January 27, 2004 is being treated as a continuation-in-part patent application. Applicant is unaware of any provision in the Rules of the U.S. Patent and Trademark Office allowing such treatment of a claim amendment filed in a pending patent application. Applicant respectfully asserts that pursuant to 35 U.S.C. § 120, the present application is entitled to the effective filing date of August 31, 1999.

Response To Argument (Item 10)

Applicant rests on the arguments previously made in the Appeal Brief filed on September 15, 2004 with the exception of the comments on page 8 second paragraph of the Examiner's Answer mailed December 1, 2004. In the second paragraph of page 8, it has been asserted that the teachings in the specification of U.S. Patent No. 6,542,602 (prior art of record) is "contrary" to any other interpretation than that described in the Examiner's Answer. Applicant respectfully disagrees since as previously discussed in an after final response mailed June 18, 2004, the specification of U.S. Patent No. 6,542,602 does in fact include such "contrary" teachings. Specifically, "Monitoring system 16 preferably stores captured audio and screen data to one or more storage media 26 and provides captured audio and screen data to one or more supervisor workstations 18 either in real-time or later in a playback mode where audio, screen data, and other data may be monitored separately or simultaneously."

(U.S. Patent No. 6,542,602 paragraph bridging columns 6 and 7) (emphasis Applicant's)

Conclusion

In summary, the 35 U.S.C. § 112 first paragraph rejection of Claims 2-4 should be overturned. Claims 2-4 are fully enabled by the specification. In addition, the specification does enable a person skilled in the art to make and use the invention described in Claims 2-4.

Serial No. 09/833,301 Reply Brief to Examiner's Answer

Filed: April 10, 2001

The 35 U.S.C. §102(e) rejection of Claims 2-4 should also be overturned since the effective filing date of an application cannot be determined arbitrarily based on the date that Claims were submitted by amendment to the U.S. Patent Office.

Thus Applicant respectfully requests the Examiner, or the Board of Appeals in its ex parte capacity, to indicate that Claims 2-4 are entitled to the effective filing date, and are allowable subject to the Request For Interference filed on January 22, 2004.

Dated: February 1, 2004

Respectfully submitted,

BRINKS HOFER GILSON & LIONE One Indiana Square, Suite 1600 Indianapolis, Indiana 46204

Telephone: 317-636-0886 Facsimile: 317-634-6701

Sanders N. Hillis Reg. No. 45,712 Attorney for Applicant